



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 7, 1996

Mr. Alberto R. Gonzales  
General Counsel  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

OR96-0297

Dear Mr. Gonzales:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38575.

The Office of the Governor received an open records request for its records pertaining to the development of the "Turn Around Texas" program. You state that you have released to the requestor some of the requested documents. You seek to withhold certain other documents pursuant to section 552.111 of the Government Code.

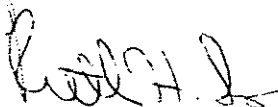
Section 552.111 of the Government Code excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process. Open Records Decision No. 615 (1993) at 5. The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added). Section 552.111 does not protect facts and written observation of facts and events that are severable from advice, opinions, and recommendation. Open Records Decision No. 615 at 5. If, however, the factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make separation of the factual data impractical, that information may be withheld. Open Records Decision No. 313 (1982).

We agree that the handwritten notes you have submitted to this office constitute the "opinion" of the writer regarding policy matters and as such may be withheld in their entirety pursuant to section 552.111. We also agree that most of the remaining materials

may properly be withheld under this section. We have marked, however, those portions of the inter-office "Memorandum" that must be released.<sup>1</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/RWP/ch

Ref.: ID# 38575

Enclosures: Marked documents

cc: Ms. Jamissa Jarmon  
Legal Fellow  
American Civil Liberties Union  
P.O. Box 3629  
Austin, Texas 78764-3629  
(w/o enclosures)

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<sup>1</sup>One of the records submitted to this office is a draft version of a document that was never released to the public. In Open Records Decision No. 559 (1990), this office concluded that drafts of documents *intended for release* may be withheld under section 552.111. Because this particular record was not released to the public in its final form, we conclude that only those portions that we have marked may be withheld as advice, opinion, or recommendation pursuant to section 552.111.